

PUBLIC CHOICE AND THE REGULATORY ROLE OF GOVERNMENT

*A.C. Jordaan
Department of Economics
University of Pretoria*

*Y. Jordaan
Department of Marketing and Communication
University of Pretoria*

ABSTRACT

This article attempts to describe the formation of public choice and the role that government should play in accommodating this in its regulatory environment. The need to foster institutions arises from certain intrinsic qualities of society at large, such as the limited capacity of individuals to address public issues. Collective needs are often expressed and one of the roles of an institution such as government is to address these needs. It is assumed that government should, in the design of optimal public policy, adhere to human response and take cognisance of public choice. There is evidence that the general public in South Africa are concerned about the protection of their personal information when engaging in transactions with business enterprises and that they expect government to enforce protection. Although very strict information privacy laws exist in many countries of the international world, South Africa is still a surprising exception. Given the ostensible role of government in harnessing public choice, it is evident that the regulatory environment concerning the protection of consumer information in South Africa is not yet successfully addressed, let alone adheres to international best practices.

INTRODUCTION

Public choice is established through the general behaviour of individuals, groups of individuals, or the community at large. If the public feels strongly about a specific issue they can follow various routes to convey their opinion to government. When the need is expressed strongly enough, it is expected of government to integrate this

formulated public opinion within its regulatory framework because government was elected by society and should therefore, in general, adhere to their demands. Lately, the public's awareness of privacy issues has increased and more citizens request individual privacy and data protection rights. The ability to gather and use confidential consumer information in commercially desirable ways has increased substantially in recent years. Advances in technology have made collecting, sorting and disseminating this information easier than before.

The objective of this article is to highlight the role of government in addressing public demand for information privacy protection. The first section examines the role of government in addressing public choice and the development of an optimal public policy. Thereafter, public choice in general and its influence on information privacy is described. The penultimate section includes a discussion on the international privacy regulatory environment and finally, the South African public's choice on privacy concerns are evaluated.

ROLE OF GOVERNMENT

In general, a government pursues certain collective aims and is politically authorised to exercise power, bound by specific rules within a predetermined jurisdiction (Inman, 1987:649). A modern democracy is generally based on the recognition of certain inalienable basic rights of individuals and on the ultimate sovereignty of the people in giving its collective representatives temporary powers (Kasper and Streit, 1998:290). A constitution usually binds those in charge of collective action to specific constraints and depends for its effectiveness on electoral democracy, the prevalence of the rule of law and the openness of the economy and society (Kasper and Streit, 1998:333).

Being elected by the public, government assumes the role of satisfying and integrating public opinion within its regulatory framework. Connolly & Munro, (1999:7) argue that the following important features of a government in a democratic society should be visible.

- *Compulsion*: The government is the most powerful single institution in a society and has a monopoly over certain activities including law-making.
- *Accountability*: Members of government face the test of election from time to time which means they are accountable to the public.
- *Motivation*: Any employee within the public arena is expected to serve the public interest.

Reinert (1999:279) identifies government as a promoter of economic growth, whereas Von Humbolt (1996:19) simplifies the role of government by stating that it has one of two ends in view: to promote happiness; or simply to prevent evil. The universal agreement is thus that government should be an instrument through which citizens engage in projects that manifestly improve their collective welfare. Thus, the election of representatives in a government allows all *voices* to be heard.

The working of a government is sporadically evaluated by the public who would like to be reassured positively by what they experience. The public is composed of

self-interested individuals and the members that they elect to represent them who are also self-interested. A contradiction often occurs because the public expects that self-interested government officials will act for the common good. A democratically elected government thus has a daunting task to ensure that it adheres to public choice while limiting the potential damage that they as government, i.e. self-interested individuals, may cause (Leach, 2004:393).

The history of developmental success indicates that the market and government are not opposed forms of social organisation but are interactively linked (Rodrik, 1997:437). Today there is widespread agreement that markets and private enterprises are at the heart of a successful economy, and that government plays a complimentary role to the market. The precise nature of that role remains, however, a source of contention. It should be noted that the focus of government participation in this article is on government regulation of the private sector and not government intervention into the economy *per se*. Direct government intervention implies that government involves itself in the production and distribution of goods and services. Thus is not under discussion. However, the challenges of the market exchange sometimes require some form of central coordinating and regulating body to ensure the effective functioning of the market system. Competition policy and environmental policy are two examples of the government's regulatory function (Leach, 2004:12). This emphasises the point that government is an institution which assists in coordinating and regulating economic activities to enhance public welfare.

At a very basic level, an economy cannot function effectively if there are no laws, since this will inhibit satisfactory exchange. Unregulated economic activities normally do not lead to a socially optimal outcome. In order for organised economic activity to take place, there must be a clearly defined and enforced set of laws and regulating policies. It is important that government only pursue regulatory actions if it can be justified that these actions will improve the market outcomes (Wint, 1998:284). The objective of this regulatory role is to provide an economic environment which is stable and reliable, under which consumers and enterprises can organise, compete, cooperate and exchange. One instrument that government uses to achieve this environment is through the development and implementation of public policies. However, it is of vital importance that people taking part in this process should be skilful, particularly because of the implications and consequences of policy decisions on society at large.

Policies are designed and implemented for specific purposes, but they are generally made in the context of human societies and acknowledging the constraints of human nature, values and the political realities. In democratic societies, policies are often introduced as a response to public pressures, although sometimes it may represent a conscious attempt at problem solving or as a means to achieve specific ends (Ho, 2000:1013). Policy makers should recognise that the outcomes of any policy must be the result of both the features of the policy itself and the behaviour of society who are affected directly or indirectly by the policy. In evaluating any policy or programme, economists usually look for Pareto or near-Pareto improvements, meaning changes or policies in this case, that make someone or some groups better off, without making anyone or almost anyone, worse off (Stiglitz, 2000:264). It is only when all the costs, direct and indirect, present and future,

economic and social, moral and non-moral are considered that policies may, over the long run, be fully evaluated in terms of its success (Ho, 2000:1016).

Superior policy design is fundamentally based on the acquisition of reliable and relevant information. The lack of information concerning certain issues may sometimes hinder the government in developing efficient policies and therefore, fulfilling its role effectively. The view that both markets and government sometimes fail because of a lack of information is not new. One source of obtaining information when designing policies originates from public choice. Individuals frequently tailor their choices thereby creating needs that they convey publicly. The government can utilise the collective information, emanating from the public's needs, as a basis to develop and implement public policies, especially where public choice urges them to do so.

PUBLIC CHOICE

In general, public choice is formed by individual human values which are the norms on which public policies are based. This process of public choice leaves the question of what utility do people receive from expressing their preferences or feelings. If some people feel very strongly about certain issues, they will express their feelings which are seen as a right and a civil duty. It provides them with the satisfaction of participating and shaping their society. The greater the number of people convinced about a specific issue, the higher the level of universal agreement among them that the issue needs to be addressed. Policy makers often adopt human values as explicit policy goals, enshrining these values in national constitutions (Kasper and Streit, 1998:75). Although public choice does not constitute the only source of information, its value to government depends on its capacity to provide some insight into public need. The consequences of ignoring this identified need concerning an ostensible important matter, may ultimately impact negatively on government.

Public choice theory provides an economic model for a political decision-making process. For simplicity, public choice theory utilises the microeconomic theory of voting behaviour. This theory can briefly be explained as a process where the input is derived from public preferences, feelings or needs concerning a certain aspect. The democratic process then takes place through a process of debate and deliberation where, if sufficiently representative group of people are convinced about the merit of the case, a 'vote' would be made known publicly. If the critical mass supporting the cause is overwhelmingly in favour of the cause, this would be communicated in public and endeavoured to convince government to integrate it within its public policy domain (Connolly & Munro, 1999:121).

After establishing public choice, an important question arises of whether the political process will deliver what the public wants. It becomes evident that the public expects action from a democratically elected government in terms of public policy. The quality of the democratic process determines the extent to which the needs of the community are satisfied through public policy. Currently Government is confronted by COSATU's demands for the safeguarding of jobs in South Africa by limiting textile imports from China. Government now is required to consider the demands within its future policies.

As can be seen in the next section, a sensitive issue currently on the public's agenda is the information privacy issue. Public choice can play a major role in influencing governmental institutions to regulate the protection of information privacy.

PUBLIC CHOICE ON INFORMATION PRIVACY

Many believe that information is the true heart of the 21st century information revolution, just as electricity was the true heart of the 20th century's technological revolution. Information is both a commodity to be bought and sold on an open market and an asset bestowing enormous competitive advantages on those with early or more complete access to it (Turner, 2002:1). Because of the information revolution, many individuals' rights to privacy embody two desires, namely the desire to be left alone and the desire to protect their confidentiality (Agre & Rotenberg, 1998:226; Devenish, 1999:146).

The public expresses strong views about the protection of their personal information when dealing with commercial enterprises. Public choice is forcing privacy onto the government's agenda (Mazur, 2001:20). Many consumers have experienced quite distinctly and personally the potential dangers of unrestricted gathering and processing of personal data by enterprises. As a corollary to these personal experiences, the public requests individual privacy and data protection rights, above and beyond legislative attempts to control and regulate specific data processing technology (Agre & Rotenberg, 1998:225).

Blattberg and Deighton (1991:12) have noted the following information privacy issues that affect consumers: there is concern that much of the information is gathered without consent; consumers are not given the right to prevent transaction information from being sold or used; there is opposition to the proliferation of direct mail marketing and telemarketing to households; and the assumption is often made that more effective databases will lead to more solicitation. Some fear that information may fall into the wrong hands and that their personal information might be used in fraudulent schemes against naïve or unsuspecting people. This is demonstrated by a recent article in the *Saturday Star* newspaper that revealed how business enterprises had access to people's private data and used it freely to open accounts without their consent (Mufweba & Oliphant, 2003:8). In reality, the public have different thresholds of information privacy which are determined largely by the kind of information being collected, the business enterprise responsible, how the data is collected and the subsequent uses to which that information will be put (O'Malley *et al*, 1999:426).

In recent years, the ability to gather and use confidential consumer information in commercially desirable ways has increased substantially. Advances in technology have made collecting, sorting and disseminating this information easier than before. In addition, the growing popularity of e-commerce has led business enterprises to offer more services on the Internet, leading to an increase in the volume of personal information in circulation (Smith, 1999:8). Many people identify a threat to their individual privacy owing to the increasing power of the information-processing technology used to collect, store, analyse and exchange vast amounts of information about them. Unfortunately, their information is

often used for the benefit of the business enterprise and there seems to be little protection for the individual who is the source of the data (Collier, 1995:41).

The public's awareness of privacy issues has increased sharply as a result of the growth of the Internet. First, the Internet has prompted a huge increase in the number of people using computers. Second, several privacy-related incidents have resulted in considerable negative press coverage for business enterprises that invaded people's privacy improperly. Third, many business enterprises are using the Internet for marketing, sales or information dissemination. Finally, the Internet's international nature presents new challenges to governments, technology developers and providers, enterprises and consumers (Loyle, 2002:50).

There is sufficient evidence to suggest that people world-wide recognise a problem with regard to a lack of information privacy and control over personal information once the information has been divulged to business enterprises. People's attitudes about privacy have been researched in various countries and have been addressed in public opinion surveys in a number of disciplines, including law, political science, sociology and psychology. Several studies have documented high levels of concern among individuals regarding their information privacy. Findings from one study indicate that privacy concerns are seen as issues of high intensity expressed by more than three quarters of American consumers (Westin, 2002:16). A *Wall Street Journal/NBC News* poll of 2 025 adults has also found that the loss of personal privacy was the primary concern of Americans as the twenty-first century approached (EPIC, 2002:11).

Results from an online study indicate that a vast majority of consumers believe that the Internet has made it easier for someone to obtain personal information about them (Graeff and Harmon, 2002). Findings from yet another study by Ha (2004) indicates that online users want highly visible privacy policies explaining to them precisely how a company will use their personal information. Turner and Varghese (2002:11) reviewed the results of five major consumer privacy surveys conducted in 2001. Their report shows that recent consumer surveys were consistent in finding high levels of concern about privacy. Nearly two-thirds of all respondents who were very concerned about their privacy also conveyed a great deal of concern about the potential misuse of their personal information by business enterprises (Harris Interactive, 2002:100). The findings of studies in Japan, Canada, the United Kingdom and Germany have indicated that people in these countries were also concerned about information privacy (Maynard & Taylor, 1996:41; Campbell, 1997:51).

PUBLIC CHOICE IN SOUTH AFRICA

The South African public have recently demonstrated that they have a desire to protect their privacy. Early in 2002, EasyInfo.co.za (South Africa's first online telephone directory) launched a directory of 2,5 million names and addresses (including thousands that are unlisted in the white pages of Telkom directories). Soon after, EasyInfo, newspapers and radio stations were bombarded by complaints from consumers about an invasion of privacy. Initially, EasyInfo removed approximately 800 names from the directory, but only weeks later, EasyInfo had to close its information site containing

confidential information of Telkom customers. Telkom also ordered EasyInfo to hand over all customer confidential information and disclose all third parties to whom the information had been made available (Venter, 2002:3).

While several international studies have shown strong evidence indicating different dimensions of information privacy concerns, a recent South African survey has indicated that information privacy is also an issue or a matter of concern to the South African public (Jordaan, 2003). This study focused, among other issues, on people’s expectations regarding government or legislative protection during stages of data collection, data security, data use, data disclosure and solicitation. Findings from this study indicate that government protection (or the lack thereof) is one of four major privacy-related concerns of the South African public. A discussion on some of the relevant issues of this study follows.

The majority of respondents indicate extremely high expectations about the protective role of government. Table 1 indicates the percentage of individuals who agreed with statements regarding legislative and government protection.

Table 1: Legislation and government protection expectations

EXPECTATIONS ABOUT GOVERNMENT’S ROLE	Agree slightly/ strongly
	%
Government should do more to protect the safety of personal information.	93
Government should limit companies’ use of personal information to only that purpose for which it was collected.	92
Government should restrict companies to collect only the information needed for a specific transaction.	91
Legislation should prevent a company from sharing your personal information with other companies without your permission.	89
Government should limit unrequested advertising material sent to consumers.	75

Source: Jordan, Y (2003)

From Table 1 it is clear that respondents have extremely high expectations regarding legislation and government protection of their information privacy. The highest expectation (93 per cent) relates to government’s role in protecting the safety of consumers’ information. It is worth noting the very high expectations of respondents regarding the notion that government should restrict business enterprises’ collection of personal information (91 per cent), as well as limit the use thereof (92 per cent). Almost nine out of ten (89 per cent) consumers responded that there should be legislation to prevent companies from sharing their information with others without their permission. Three quarters of consumers (75 per cent) also expressed the expectation that government has an obligation to limit unrequested advertising material.

Another important finding from the South African study pertains to the classification of South African consumers into different privacy sensitive segments based on their general privacy concerns. The same Index used to classify the American public, were applied to classify the South African public into three privacy sensitive segments (Harris Interactive, 2002). The *first* segment (Privacy Fundamentalists) contains people with very high concern about privacy. This segment regards privacy as a right with an especially high value. They reject the claims of many business enterprises' need (or entitlement) to obtain personal information for their business or governmental programmes. They argue that more individuals should simply refuse to give out information they are asked for and they favour the enactment of strong laws to secure privacy rights and control organisational discretion. The *second* segment is labelled as 'Privacy Pragmatists'. This group examines the relevance and social propriety of the information sought. They want to establish about the potential risks to breaches of their privacy and about the security of their information. They are sensitive in observing whether fair information practices are being maintained widely enough and then decide whether they will agree or disagree with specific information activities. The final segment, the 'Privacy Unconcerned', does not know what the *privacy fuss* is all about. They support the benefits of most organisational programmes concerning warnings about privacy abuse. They have few problems with supplying personal information to government authorities or businesses and see no need for creating another government bureaucracy to protect someone's privacy.

Table 2 below provides a comparison between the percentages of American versus South African respondents in the different privacy sensitive segments.

Table 2: Privacy Segmentation Index comparison

PRIVACY SEGMENTS	USA %	SA %
Privacy Fundamentalists	34	30
Privacy Unconcerned	8	11
Privacy Pragmatists	58	59

Source¹: Harris Interactive. 2002. Privacy on and off the Internet: what consumers want. Privacy & American Business. Study no 15229:20-22.

Source²: Jordaan, Y. 2003.

Contrary to common belief, the results from Table 2 indicate that the South African public do not differ from Americans in their views of, and approach to information privacy. The findings show that information privacy is a salient and relevant issue to many people. This supports the conclusion of international studies that consumers world-wide are concerned about threats to their personal privacy. The message of the results from this index to South African business enterprises and government is that a substantial proportion of individuals are moderately to very concerned about information privacy. In order to identify and maintain socially responsible behaviour, government continually has to monitor trends in the values held by society, because, as the members of the public are exposed to, and

gain a greater understanding of business enterprises practices, their values and expectations may change.

People's concerns regarding the privacy issue are very real, and governments across the world as well as global business enterprises wanting to achieve long-term success, have to take these concerns into account. To some extent, many countries have addressed the privacy issue, as can be seen from the discussion below.

INTERNATIONAL REGULATORY ENVIRONMENT

As mentioned previously, people around the world are increasingly recognising that their personal information are subjected to unfair control and manipulation on a daily basis. Therefore, various countries are passing legislation on personal data protection (Holvast *et al*, 2001:14). Data protection is no longer seen as a purely functional construct to be used to directly shape and influence the use of information-processing technology. Instead, the focus has shifted to the individual, as can be seen in citizens' rights featured prominently in all European data-protection systems (Agre & Rotenberg, 1998:235).

There is a significant difference between the United States (US) and Europe in their approach towards privacy. The US legislation is based on its bill of rights, which serves to protect the individual from unacceptable actions by the state. Legislation protecting the individual from undue invasion of privacy is minimal and fragmented by other individuals and private entities. European countries are more concerned about the invasion of privacy by individuals and private entities (Pienaar, 2003:6). It is clear that the European Union's 1995 Data Protection Directive constitutes the rules for the increasingly global character of data-processing operations. Its effect on countries outside the European Union is principally a penetrative one. The increasing global interdependence means possible consequences for those business enterprises that rely on the unimpeded flow of personal information, and which cannot claim to protect the data of consumers, clients and employees in ways that match European standards (Agre & Rotenberg, 1998:111).

In an interdependent world, the policy efforts of the Europeans carry externalities that force other countries to pursue policies that they would otherwise oppose or avoid. The alternative is to bear the costs of maintaining a different public policy. The European Union Directive on the protection of personal data and privacy in the electronic communications sector took effect on 31 July 2002. This Directive introduces rules on data retention and unsolicited commercial communications. In addition, the general pressures to conform, have increased as more and more countries have joined the 'data-protection club'. There is an increasing perception that adequate privacy protection is a necessary condition for being on the global information highway (Agre & Rotenberg, 1998:112).

To provide a secure and stable environment for conducting business, information privacy protection becomes critical. The South African public's choice is to have their information privacy protected by government. Respondents in the South African study specifically stated that they expect government to limit business enterprises' collection and use of personal information only to that needed for a specific transaction and that government

must do more to protect the safety of personal information. It is thus evident that it is not only the global community that is forcing the South African government to adopt privacy legislation and actions, but that the public is also developing strong expectations regarding government's future role in the protection of information handling practices. Although well established information privacy protection laws exist in many countries, South Africa is lagging behind.

INFORMATION PRIVACY PROTECTION IN SOUTH AFRICA

The right to privacy has become widely recognised and has developed in recent times. It is expressly guaranteed in the *Universal Declaration of Human Rights* of 1948, the *European Convention on Human Rights* of 1950, the *International Covenant on Civil and Political Rights* of 1966, and the *American Convention on Human Rights* of 1969 (Devenish, 1999:135-136). It is not explicitly mentioned in the *African Charter on Human and People's Rights* of 1981, but is found in most domestic bills of rights, as is the case in South Africa. The Constitution of the Republic of South Africa, 1996 guarantees a number of rights of every South African citizen, including the right to privacy, as described in the Bill of Rights (Constitutional, 1996).

Section 14 in the Bill of Rights of the Constitution, 1996 which embodies the right to privacy, states: everyone has the right to privacy, which includes the right not to have their person or home searched; their property searched; their possessions seized; or the privacy of their communications infringed.

Section 14 in the Bill of Rights has two parts. The first guarantees a general right to privacy and the second protects people against specific infringements of privacy, namely searches and seizures and infringements of the privacy of communications. Usually, the two parts are dealt with in separate sections of a bill of rights. In South Africa, however, the specific areas of protection form part of the general right to privacy. In most cases, when one's person, home or property is searched, or when one's possessions are seized or communications intercepted, Section 14 would be infringed upon. However, because the right against searches and seizures is a subordinate element of the right to privacy, the Constitution's protection is triggered only when an applicant shows that a search, seizure or interception of communication has infringed the general right to privacy (De Waal *et al*, 2000:242-3).

Apart from giving the right to personal privacy a benevolent interpretation, Section 14 must also be read together with similar rights protected in other sections in the Bill of Rights, such as the right of access to information provided for in Section 32. The right to personal privacy (Section 14), read with the right of access to information (Section 32), should therefore be interpreted as guaranteeing each citizen a privacy of personal information.

Currently there is no law in South African that deals specifically with data protection, and the existing laws are unable to deal effectively with the growing infringements on personal privacy. Parliament's justice portfolio committee claims that the absence of relevant legislation has exposed South Africans to widespread abuses of privacy (Ludski, 2000:1).

When people apply for an account at a bank, the personal information obtained by the bank can be shared with other institutions without the consent of customers. Unless it is properly regulated, information technology is capable of eroding, if not eliminating, the concept of privacy.

The recently passed *Promotion of Access to Information Act, 2000* (Act 2 of 2000) and the *Electronic Communications and Transactions Act, 2002* (Act 25 of 2002) both have sections dealing with data collection and voluntary adherence to data protection principles. But since they are considered as interim measures, the Minister of Justice assigned ten members to the Project 124 Committee with the aim to investigate the privacy and data protection issue to improve existing legislations and adding new legislation as soon as possible (Mokgoro, 2000:10-22). In 2003, this Law Reform Commission compiled a discussion paper as part of its investigation into how South Africa's data protection laws should be constructed. The preliminary proposals of the Commission state that:

- privacy and data protection should be regulated by legislation;
- general principles of data protection should be developed and incorporated into law;
- a statutory regulatory agency should be established; and
- a flexible approach should be followed in which industries will develop their own codes of practice, overseen by the regulatory agency (SA Law Reform Commission, 2003).

A balance between privacy and the ability to share information is crucial, and inadequate laws could be just as damaging as over-restrictive laws. However, individuals' high government protection expectations, as noted in the South African study, can be viewed as a signal to the *Law Reform Commission* that protection legislation is long overdue and would be embraced by the public. At the outset, South African business enterprises intended to demonstrate that self-regulation was the answer to local consumer and government privacy concerns. The high level of information privacy concern among South Africans demonstrate that these programmes have failed to provide enforcement mechanisms and that people now expect government to address the issue. The public, enterprises and policy-makers must work in unison to reduce information privacy concerns. Government needs to emphasise that obtaining a balance between business enterprises' information needs and individuals' privacy concerns, necessitates compromises.

Besides public choice on information privacy, the South African government and South African enterprises have to realise that a lack of proper data protection can have consequences for future transactions. International legislation prohibits the transfer of personal data to a country (such as South Africa) that does not provide a level of protection similar to its own. Therefore, it is quite likely that South African business enterprises may be denied access to information from their own subsidiaries or other organisations located in such countries.

Present technology makes it easy to operate across conventional country borders and poses new challenges for the laws of South Africa. Privacy is becoming an important trade issue, since data privacy concerns can create barriers to international trade. This suggests that new laws should have an international perspective that include negotiating rules and common standards of practice that are relevant in the global environment. Common

international themes in data protection law are that personal information must be obtained legally; used only for the specified purpose for which it was obtained; accessible to the subject; kept secure and destroyed after its purpose is completed (Stones, 2003:8).

A lack of a proper regulatory framework may have far-reaching implications if South Africa fails to comply with existing global regulations. It is envisaged that the Project 124 Committee will address all the relevant data protection issues to resolve the current lack of not only public trust, but also international trust.

CONCLUSION

There is evidence that public choice in South Africa is universally convergent towards the protection of consumer information. Government should take cognisance of this fact as a matter of urgency in developing and implementing the required regulatory framework. Given public choice as well as existing international standards on consumer privacy, there will be strong and perhaps irresistible pressure on South Africa to follow suit. As the global marketplace continues to expand, business enterprises face increasingly strict privacy and data protection regulations in an increasing number of countries around the world. Regulatory frameworks lacking proper legislation can pose serious problems for transnational and multi-national enterprises conducting business world-wide. This may have far-reaching social and ethical implications, particularly when South Africa fails to comply with the existing regulations that protect the privacy of the public or the entities involved. It is therefore important for government to align public choice, their regulatory framework and international best practices in order to ensure a competitive economic environment.

BIBLIOGRAPHY

- Agre, P.E. & Rotenberg, M. 1998. *Technology and Privacy: the new landscape*. First Edition. Cambridge: MIT Press.
- Blattberg, R.C. & Deighton, J. 1991. Interactive marketing: exploiting the age of addressability. *Sloan Management Review*, 33(1): 5–15.
- Campbell, A.J. 1997. Relationship marketing in consumer markets: a comparison of managerial and consumer attitudes about information privacy. *Journal of Direct Marketing*, 11(3): 44–57.
- Collier, G. (1995). Information Privacy. *Information Management & Computer Security*, 3(1): 41–45.
- Connolly, S. and Munro, A. 1999. *Economics of the public sector*. Essex, England: Pearson.
- Constitutional Assembly. 1996. *Constitution of the Republic of South Africa* 1996. Constitutional Assembly, <http://www.polity.org.za/govdocs/constitution>.
- Devenish, G.E. 1999. *A commentary on the South African Bill of Rights*. Durban, South Africa: Butterworth.
- De Waal, J., Currie, I. & Erasmus, G. 2000. *The Bill of Rights Handbook*. Kenwyn: Juta.

- Electronic Privacy Information Center (EPIC). 2002. *Public opinion on privacy*. EPIC public opinion and privacy page, 1 May:1–16, <http://www.epic.org/privacy/survey>.
- Graeff, T.R., Harmon, S. 2002. Collecting and using personal data: consumers' awareness and concerns. *Journal of Consumer Behaviour*. 19(4): 302–318.
- Ha, H. 2004. Factors influencing consumer perceptions of brand trust online. *Journal of Product and Brand Management*, 13(5): 329–342.
- Harris Interactive. 2002. *Privacy on and off the Internet: what consumers want*. Privacy & American Business. Study no 15229:1–127.
- Holvast, J., Madsen, W. & Roth, P. 2001. *The Global Encyclopedia of Data Protection Regulation*. Supplement No. 3. Netherlands, The Hague: Kluwer Law International.
- Ho, L.S. 2000. The nature of optimal public policy. *International Journal of Social Economics*, Vol. 27, no. 7/8/9/10: 1013–1019.
- Inman, R.P. 1987. Markets, government and the new political economy. In Auerbach, A.J. and Feldstein, M. (eds.). *Handbook of Public Economics*. Vol II, Amsterdam, The Netherlands: Elsevier Science.
- Jordaan, Y. 2003. South African consumers' information privacy concerns: an investigation in a commercial environment. *Unpublished Doctoral thesis*, University of Pretoria.
- Kasper, W. and Streit, M.E. 1998. *Institutional Economics: social order and public policy*. Cheltenham, United Kingdom: Edward Elgar.
- Leach, J. 2004. *A course in public economics*. Cambridge, United Kingdom: Cambridge University Press.
- Loyle, D. 2002. Privacy under scrutiny. *Target Marketing*, 25(3): 50–51.
- Ludski, H. 2000. Bid to blind Big Brother. *Sunday Times*, 3 December:1.
- Maynard, M.L. & Taylor, C.R. 1996. A comparative analysis of Japanese and US attitudes toward direct marketing. *Journal of Direct Marketing*, 10(1): 34–44.
- Mazur, L. 2001. *Consumers hold sway in laws on data protection*. *Marketing*, 22 March:20.
- Mokgoro, Y. 2000. *Annual Report*. South African Law Commission, <http://wwwserver.law.wits.ac.za/salc/annrep>.
- Mufweba, Y. & Oliphant, L. 2003. Data privacy laws are being drafted. *Saturday Star*, 6 December: 8.
- O'Malley, L., Patterson, M. & Evans, M. 1999. *Exploring direct marketing*. London: International Thomson Business Press.
- Pienaar, C. 2003. Global standards of data protection is vital. *Business Day*, 10 November: 6.
- Reinert, E.S. 1999. The role of the state in economic growth. *Journal of Economic Studies*. Vol. 26, no. 4/5: 268–326.
- Rodrik, D. 1997. The paradoxes of the successful state. *European Economic Review*. Vol. 41, p. 411–422.
- SA Law Reform Commission. 2003. Press statement by the South African Law Commission concerning its investigation into privacy and data protection, <http://www.law.wits.ac.za/salc/media/media.html>.

- Smith, T.B. 1999. Comment: programs needed to comply with privacy law. *American Banker*, 164(155): 8.
- South Africa (Republic). 1996. *Constitution of the Republic of South Africa*, 1996.
- Stiglitz, J.E. 2000. *Economics of the public sector*. Third edition. New York, USA: Norton & Company.
- Stones, L. 2003. Getting SA up to speed on data protection laws. *Business Day*, 4 September: 8.
- Turner, M.A. 2002. Activities and supporters guide. *The Information Policy Institute*, as discussed at the 8th Annual National Conference 'Managing the new privacy revolution', 20–22 March, Washington, DC.
- Turner, M.A. & Varghese, R. 2002. *Making sense of the privacy debate: a comparative analysis of leading consumer privacy surveys*. Privacy & American Business, The American consumer and privacy: P&AB's annual round-up and analysis of privacy surveys, as discussed at the 8th Annual National Conference 'Managing the new privacy revolution', 20–22 March, Washington, DC.
- Venter, Z. 2002. Telkom customer privacy case settled. *Pretoria News*, 20 February:3.
- Von Humbolt, W. 1996. *The sphere and duties of government*. Bristol. Thoemmes Press.
- Westin, A.F. 2002. *Congressional hearing on opinion surveys: what consumers have to say about information privacy*. Privacy & American Business, The American consumer and privacy: P&AB's annual round-up and analysis of privacy surveys, as discussed at the 8th Annual National Conference 'Managing the new privacy revolution', 20–22 March, Washington, DC.
- Wint, A.G. 1998. The role of government in enhancing the competitiveness of developing economies. *International Journal of Public Sector Management*, Vol. 11, No.4: 281–299.